

109TH CONGRESS
1ST SESSION

H. R. 4403

To amend title XVIII of the Social Security Act to clarify Congressional intent regarding the counting of residents in a nonhospital setting under the Medicare Program.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 18, 2005

Mr. HULSHOF (for himself and Mr. TANNER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XVIII of the Social Security Act to clarify Congressional intent regarding the counting of residents in a nonhospital setting under the Medicare Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community and Rural
5 Medical Residency Preservation Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Medicare program has a long history of
2 supporting residency training in ambulatory sites.
3 These sites include physician offices, nursing homes,
4 and community health centers, all of which are cor-
5 nerstones of ambulatory training for graduate med-
6 ical education programs. Such sites provide an im-
7 portant educational experience due to the broad
8 range of patients treated.

9 (2) Training in ambulatory settings is critical
10 to residents' medical education, ensuring they will be
11 exposed to practice settings similar to those in which
12 they may ultimately practice. It is particularly im-
13 portant for residency programs in primary care spe-
14 cialties.

15 (3) Beginning in 1987, hospitals were allowed
16 to count the time resident physicians spent in non-
17 hospital settings for the purpose of direct graduate
18 medical education (DGME) payments, subject to
19 agreements between the hospital and the non-hos-
20 pital site where training occurred. To qualify, the
21 hospital was required to incur "all or substantially
22 all" of the costs associated with the resident. In
23 1989, the Health Care Financing Administration
24 (HCFA) defined "all or substantially all" of costs as
25 the resident salaries and benefits.

1 (4) Through the Balanced Budget Act of 1997,
2 Congress further reinforced its commitment to am-
3 bulatory training by altering the financial formula to
4 include payments for indirect medical education
5 (IME) costs. This requirement was met if the hos-
6 pital paid the residents' stipends and benefits. Effec-
7 tive January 1, 1999, the Center for Medicare &
8 Medicaid Services (CMS), on its own authority,
9 changed its regulatory definition of "all or substan-
10 tially all" to require hospitals to also incur "the por-
11 tion of the cost of teaching physicians' salaries and
12 fringe benefits attributable to direct graduate med-
13 ical education".

14 (5) Despite the fact that CMS recognized the
15 use of volunteer supervisory physicians in the pre-
16 ambles of two regulations and a program memo-
17 randum, CMS intermediaries have begun denying,
18 retroactively through audits, the time residents
19 spend in non-hospital settings in situations where
20 faculty are volunteering their services. This has the
21 effect of significantly reducing the IME and DGME
22 payments a hospital or teaching program receives
23 for residents training in non-hospital settings.

1 **SEC. 3. CLARIFICATION OF CONGRESSIONAL INTENT RE-**
2 **GARDING THE COUNTING OF RESIDENTS IN A**
3 **NONHOSPITAL SETTING.**

4 (a) DIRECT GRADUATE MEDICAL EDUCATION
5 (DGME) PAYMENTS.—

6 (1) IN GENERAL.—Section 1886(h)(4)(E) of
7 the Social Security Act (42 U.S.C.
8 1395ww(h)(4)(E)) is amended by adding at the end
9 the following new sentences: “For purposes of the
10 preceding sentence, the term ‘all, or substantially all,
11 of the costs for the training program’ means the sti-
12 pends and benefits provided to the resident and
13 other amounts, if any, as determined by the hospital
14 and the entity operating the nonhospital setting. The
15 hospital is not required to pay the entity any
16 amounts other than those determined by the hospital
17 and the entity in order for the hospital to be consid-
18 ered to have incurred all, or substantially all, of the
19 costs for the training program in that setting.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall apply to portions of cost re-
22 porting periods occurring after the date of the enact-
23 ment of this Act.

24 (b) INDIRECT MEDICAL EDUCATION (IME) PAY-
25 MENTS.—

1 (1) IN GENERAL.—Section 1886(d)(5)(B)(iv) of
2 such Act (42 U.S.C. 1395ww(d)(5)(B)(iv)) is
3 amended by adding at the end the following new
4 sentences: “For purposes of the preceding sentence,
5 the term ‘all, or substantially all, of the costs for the
6 training program’ means the stipends and benefits
7 provided to the resident and other amounts, if any,
8 as determined by the hospital and the entity oper-
9 ating the nonhospital setting. The hospital is not re-
10 quired to pay the entity any amounts other than
11 those determined by the hospital and the entity in
12 order for the hospital to be considered to have in-
13 curred all, or substantially all, of the costs for the
14 training program in that setting.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by paragraph (1) shall apply to discharges occurring
17 after the date of the enactment of this Act.

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